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UNITED STATES OF AMERICA.

THE

CASE

OF

THE BATTALION STATED,

WITH

AN EXPOSITION

OF THE

GROUNDS UPON WHICH CHAS. LEE JONES, ESQ.,

EXPECTED TO HAVE HAD THE COMMAND OF THE BATTALION (CONSISTING OF THREE COMPANIES RAISED BY HIMSELF IN THE DISTRICT OF COLUMBIA, AND TWO TO BE RAISED IN MARYLAND,) CONFERRED UPON HIM, AS OF RIGHT AND JUSTICE DUE BOTH TO HIM AND TO THE OFFICERS AND MEN WHO HAD VOLUNTEERED TO SERVE UNDER HIS COMMAND

AS LIEUTENANT COLONEL:

BY

WALTER JONES.

WASHINGTON:
PRINTED BY J. & G. S. GIDEON.
1847.

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INTRODUCTORY NOTICE.

The correspondence and the corroborative documents, contained in these sheets, are printed for the single purpose of communicating to those persons who may take any interest in the reputation or affairs of my son, or myself, more exact information than could be conveyed in any other way, of the circumstances of a recent transaction of which the principal features are of extensive notoriety. It has already attracted a large share of public attention and curiosity; and has elicited a diffusive feeling in the community, which gives cheering assurance of the number, the weight, and the influence of the men who yet remain fearless, ingenuous, and enlightened enough to disenthral their moral sense of party-biasses, and to think right and speak out, when unconscientious power would dominate over evident and known justice to a fellow citizen.

My peculiar relations to the transaction, and to the parties, necessarily called me to the duty of vindicating the reputation of my son, and the rights of more than two hundred of his fellow-citizens and comrades, who had volunteered under his banner, against indignity and insult, added to positive injustice, from hands armed with powers and wielding influences far more potent of evil, when operating for evil intents, than of good, when under the wisest and most benevolent direction. Conscious, as I was, of being myself the real mark aimed at by the archers, yet, had I alone been exposed to their shafts, I should have continued in my accustomed silence and contempt of the animosity which has occasionally been manifested towards me by men in power; but never manifested with so much of low-minded spite and mean artifice, as in the rare occasions when pride of place and poverty of soul have been found strangely contrasted in the same person. But neither neutrality nor inactivity was compatible with such impulses as I have been accustomed to obey, when the shafts, of which I was to be made the butt, were contrived to pass on to their destined mark, through the sides of one designed to be wounded more on my account than his own ; and whose slightest wound must prove deeper and more painful to me, than the deepest that the utmost malice of any earthly power could inflict directly and exclusively on myself.

For the readier comprehension of the conclusions justly deducible from the more material and indisputable of the facts and circumstances detailed in the annexed documents, I will now preface their introduction with a summary, indicating the points of view from which the violated rights of individuals on the one side, and the ignoble spite and vulgar insolence of power on the other, appear most conspicuous.

My son had presented, in November last, proposals for raising a volunteer battalion to serve in Mexico during the war. These proposals had been, several times in the succeeding four months, renewed and brought under the President's consideration, with some difference in form, and under some changes of circumstances. The recommendations, by which his proposals were backed, were most unequivocal in their terms, and from the highest

and most trustworthy sources; indeed the satisfactory tenor of the evidence given of his fitness to undertake the task proposed by him was implicitly admitted. But the constant answer given to his proposals was the fixed determination of the Executive to rely exclusively on the additions, authorized by Congress, to the regular regiments, and to decline any addition whatever to the volunteer force. This determination was announced to him for the last time, about the middle of March last; upon which he made up his mind to give up all thoughts of his plan as then hopeless. But in the course of a few weeks afterwards, he learned from the Adjutant General that the long-standing determination of the Executive on this point had yielded to the force of circumstances, and that requisitions for a considerable number of volunteers were to be immediately made; and among others, for a battalion composed principally of volunteers from this District.

From the tenor of this communication, my son clearly understood that the President had at last concluded to give him an opportunity to raise the battalion which he had so often proposed; in short, that an authorized overture was made to him to go on and raise the three district companies, with a view to the ultimate command of the battalion, with the rank of Lieut. Colonel.

Since I sent in my letter to the Secretary of War, on the 21st inst., I have endeavored to ascertain, from the most authentic sources accessible to me, the ground upon which the President's conduct in this matter was to be explained and justified; and, so far as the talk of such of his apologists as are supposed either to belong to, or to have intimate intercourse with, what are called ministerial circles, may be relied on, I learn that they mean to plant themselves at the threshhold, and to deny that the President ever did promise, or authorize the Adjutant General to promise, the command of the battalion to my son; or in any way to "*commit*" the President on that subject. What meaning, precisely, these gentlemen annex to the term "promise," or "commit," I know not. What precisely was the language used by the President when he communicated his views of the battalion, I know not. Both the President and the Adjutant General have been for some time absent, and I purposely abstained from seeking any disclosure on the subject from the Adjutant General, before his departure to the North. It may possibly turn out, for aught I know, that there was some egregious misunderstanding somewhere—either by the Adjutant General of the President's meaning, or by my son of the Adjutant General's.

That is a question, however, which I do not hold to be necessarily essential either to the moral merits of the President's conduct, or to the just claims of my son to the command. There are other facts and circumstances palpable, notorious, undisputed and indisputable, which of themselves created a duty to give him the command, even more imperative than a naked promise, however explicit or positive; and which imbued the act of giving it to Capt. H., at the time and under the circumstances of the perpetration of that act, with deeper and more odious stains than are commonly found on open breaches of express and solemn promises.

It was matter of the utmost notoriety, and distinctly known to the Government and to the whole community, that my son had put himself before the public in the assumed character and quality of designated command-

ant of the battalion, and under the clearest impression and most unqualified belief of his having the sanction of the Government for so doing; that he was openly and actively exercising the functions incident to the station which he supposed himself authorized to assume; publicly inviting volunteers to his banner; earnestly devoting his energies and resources to the accomplishment of the object; and incurring vast sacrifices of time, labor, and means—all upon the undoubting faith of a sufficient warrant from competent authority, as he understood it. The truth of all this, to the minutest tittle, was so notorious, that it would be difficult to find a man in the whole community to express a doubt of it, without blushing, conscious of his own insincerity. The name and the agency of the commandant of the battalion were identified with every one of the public and notorious steps taken towards its organization. 'Twas impossible for any indifferent person to take cognizance of the one, without having the other pressed upon his notice: far less could it escape the distinct cognizance of the officers of the Government, directly interested both in the means and in the results.

As to the distinct and emphatic notice to the Government of these proceedings under its very nose—how many individuals are there to be found in this community who may not be said to know what is so notorious?

The public notices from my son and the captains selected and engaged by him to raise the companies, all proclaimed him the commandant of the battalion. The earliest newspaper notices of the battalion both in Baltimore and in this city, (some of them preceding the official announcement of it) all named the same commandant. More particular references may be made, for these notices, to the two leading papers in this city—the Intelligencer and the Union; namely, an editorial article in the Intelligencer, so early as the 27th April, and an article in the Union of the 7th May, republished from the Baltimore Clipper; both referring to the name and person of the commandant, as if it were a matter perfectly understood and undoubted. Considering the habitual and well known caution of the Union as to unauthenticated reports of Executive appointments, and its vigilance in correcting erroneous reports of such appointments in other papers, we need no stronger proof of the unqualified notoriety and acceptance of the general understanding on the subject, than the quotation of it, without censure, in that paper.

But 'tis useless to be citing particular evidences of a fact to which we may find competent witnesses at every turn in the streets of Washington or Baltimore. Still, I must refer to some conspicuous instances, in which distinct and unequivocal notice and knowledge that my son had stood forward in the capacity of commandant, and was practically exercising the functions of that station, under asserted authority from Government, and even official recognitions of that authority, are brought under the very roof of the War Department.

An officer of high rank, stationed in this city, went to the War Department for the purpose of obtaining the appointment of Adjutant to the battalion for some young gentleman; but, not finding the Secretary, he was advised by one of the staff officers attached to the Department, to apply to Col. Jones, which he accordingly did.

Other and more unequivocal recognitions in official forms of my son's au-

thority and agency in the business, are to be found among the annexed documents; all showing how diffusive and implicit was the understanding of his being designated to the command of the battalion, and how notorious the fact that he so considered himself, and was openly acting in that capacity within the very walls of the Departments.*

Then in what conceivable case could any party be more absolutely bound than was the Government in this, to make prompt, instantaneous, and unequivocal disavowal of the authority under which he assumed to be acting, if that authority were indeed usurped, or by any means unduly or erroneously assumed; unless the Government, seeing that it had gone so far, had determined to waive all original exceptions to the authority, and to adopt and confirm it.

But so far from any sort of disavowal going to repel the necessary inferences and the universally recognised consequences from silent acquiescence in the authority thus exercised under the eye and within the immediate cognizance of the Government, it was confirmed by as direct, unequivocal, and binding acts of confirmation as human ingenuity could have devised; that is, by the unconditional adoption of the *acts performed* under color of it, and by the acceptance and appropriation of the *fruits* resulting from the exercise of it.

The public invitations for volunteers to come in and join the companies, all referred to the Lt. Colonel under whom they were to serve; that was a material term well understood in all the primary enrolments with their respective captains. The companies were in fact raised by his personal exertions, influence, and means; and when they came forward to be mustered into the service of the United States, they came under his conduct and guidance, and were produced and offered as volunteers mustering into service under him as commandant of the battalion. By that title, and upon those terms alone, the Government originally acquired its only claim to their services; by that title and upon those terms alone it accepted their services; and by no other does it hold them to service at this day. No change whatever in the terms or conditions of their enrolment was proposed, when the companies were organized and their officers were elected and commissioned. The terms and conditions have been bluntly and despotically violated, but no otherwise rescinded or disavowed. I know not even that the official *muster-rolls*, as originally framed by the mustering officers who were ordered to the duty of inspecting the men and mustering them into service, have been yet altered from their original form, in which they purported to be muster-rolls of companies "in the Battalion of volunteers, *commanded by Lieut. Colonel Charles Lee Jones*," &c.†

Then what signifies it now, disavowing all intention on the part of Government originally to confer the authority, or babbling of misapprehension and mistake on the part of this person or of that, in supposing that an overture had been made to my son from competent authority, to go on and fulfil the proposals, (under some slight modifications,) which he had so lately pressed upon the consideration of the Government, for raising a volunteer battalion? The common law holds men bound, in the ordinary transactions of life, by acts performed for their benefit under an authority

* See appendix, No. 8 and 9.

† See appendix, No. 8.

which, void as it may have been originally, has received subsequent assent and confirmation far less distinctly and unequivocally pronounced than such as appear in this case; and it moreover holds any attempt afterwards to get rid of responsibility on the objection of an original defect in the authority, a palpable and opprobrious fraud. In so holding, the common law follows, without the slightest deviation, the footsteps of the moral law, and of universal equity.

But somewhat of a new face (whether a fairer or honester face, I leave to all impartial judgments) has been put upon the transaction by unquestionable information communicated to me in a few days after my letter of the 8th June to the Secretary of War.

The President, by way of explaining and justifying his conduct in the affair to several of the volunteer officers, whose most earnest and determined wishes he knew had been disappointed by the sudden and to them astounding announcement, on the 8th June, of Capt. H's appointment to the command of the battalion, emphatically declared that he had never thought, for a moment, of appointing Mr. Jones, and could not, under any circumstances, be induced to appoint him; and that the appointment had been, *from the beginning*, intended for another. I learned from Capt. Hughes that the appointment had been offered to him immediately after his return from Mexico in the spring; that some time afterwards, when returning to the seat of Government from a visit to his family, he received, by the way, information apparently so credible of the appointment having been given to Mr. Jones, that he presumed the first intention of assigning the command to him had been abandoned; at which he was rather pleased, as he by no means desired the command, and would rather have declined it, but that he conceived it not proper, under his official relations to the Government, to decline any duty which it might think proper to assign him; but, on his arrival in Washington on the same day, the offer was renewed to him, and of course accepted. But I soon afterwards learned, from information equally credible, another fact that seems to throw all this into sore confusion. In the midst of my son's most active operations about raising the battalion, a person, understood to be living in close intimacy with the President, and holding some confidential situation about his person, perhaps that of assistant secretary, was going about apparently collecting information and opinions as to who might be considered the most eligible person in the District to take command of the battalion. One gentleman, of whom the inquiry was made, answered by asking, "who but Col. Jones;" to which the reply was, "oh—he won't do."

These apparently Janus-faced indications of the secret intents harbored in the Executive breast, all concur in asserting, and, wonderful to say, asserting by way of apology or defence of Executive motives and conduct,—a pre-determined, fixed, and unalterable *exclusion of my son from the command;* whilst the appointment of another in his place vacillated, for a short time, between Capt. H. and some *citizen* of the District: a vacillation probably produced by this; that the original scheme of the battalion, as officially given out, called for a *Lt. Colonel from the District;* and the momentary hesitation may have arisen from the double violence done to the terms of the enrolment; first, by denying to the volunteers the particular

commandant under whom alone they had volunteered to serve; and, secondly, by forcing upon them, against the whole current of their predilections and feelings, a commandant, not *from the District*, but from, *to them*, the most odious of all places, the *army*. But the ridiculous prudery of being scrupulous about swallowing any particular piece of the hog, and unscrupulous about the rest, was at last discarded, and they swallowed him to the very tail.

Now, how does all this affect the *moral* of the question? They lie by, and see a gentleman zealously exerting himself, and bestowing vast labor and expense in accomplishing an object greatly desired by them, in raising this battalion of volunteers; they know he is doing so with the understanding and belief that, if successful, he is to earn the command by meritorious service, and to receive it as justly earned; but, all this time, they have inexorably predetermined to refuse him the expected reward after he has earned it, and have pre-arranged to bestow it on another. With this predetermination and this pre-arrangement fixed in their own minds, they let him go on and perform the service for them, without a whisper or a breath giving him the slightest intimation either of his own predetermined exclusion, or of the pre-arranged appointment of another. Not only is there this subdolous silence on these foregone conclusions, but they are studiously concealed and dissembled from the volunteer officers on the very day preceding the announcement of Capt. H's appointment; and concealed and dissembled with such exquisite address that they left the Presidential Mansion on that day, fully persuaded that their own predetermined choice of a commandant was to be gratified; whereby the shock, produced by a contrary announcement on the next day, was so much the more stunning.*

The answer, (true or untrue,) to all this is still—no express promise—no bond in the case; as if silence itself were not always vocal to the ear of justice, whenever conscience and good faith required it to speak out; and as if falsehood and deception could never be *acted*, but must necessarily be *spoken*.

True, we had received from the Secretary of War some earlier warning of the absence of that herculean bond—an express promise; a warning, however, which, in its terms, approached not, within millions of degrees, the appalling confession now so broadly spread out, that there had been all along harbored in the secret breast of the President a predetermined design and purpose to exclude my son from the command; whilst he was to be permitted still to go on, without the slightest warning of such a design, to expend his energies and resources in raising the battalion, under the belief that, in so doing, he was to earn and receive the command of it. On the contrary, the warning, surprising, inexplicable, and suspicious as it was at that time, was perfectly consistent with ultimate justice to my son; it imported simply that neither the President nor Secretary of War had ever *promised* him the command: that the President was *not committed to any one* on the subject of the command; [N. B., not even to Capt. H.;] that no appointment would be made till the companies were all organized; [N. B., it had, as it now seems, been already *promised* to Capt. H., and was actually given to him on the 8th June, whilst both the Maryland companies and one of the

* See my letter to the Secretary of War, page 25.

District companies remained unorganized;] that there might, or might not, be difficulties in the way; the officers and men might object, &c.

At the time this warning was uttered, my son, be it remembered, had been at least three weeks strenuously and unremittingly employed in raising the companies, and had more than one hundred volunteers enrolled. Extensive, ramified, and costly arrangements had been made, and were in active progress, for raising the residue. Strange and suspicious as this warning appeared under existing circumstances, he had no fear of fulfilling all the conditions necessary to entitle him in justice to the command. Let us see what were the conditions established by all precedent usage and practice to entitle him to the command. 1. Election by the volunteers themselves. This was a chance, well understood from the beginning, as one necessary to be met; and had he expended millions in raising the battalion, he would, without hesitation, have renounced the command without such election; and would have disdained to touch it, if forced upon the volunteers by Executive favoritism on the one side, and despotism on the other. As far as things had already gone, he had one very conclusive warrant of election—the voluntary enrolment and mustering in of the men under his command by name; and the first thing done by each company, as it was organized, was to give him the unanimous vote of officers and men; and when the announcement of Capt. H's appointment came upon them by surprise, before the third District company was organized, the men of that company immediately recorded their unanimous vote, protesting against Capt. H's appointment, and calling for that of their original choice.* Indeed, it seems quite clear, that the particular time (8th June) chosen for the announcement of Capt. H's appointment, was selected with a view to anticipate and defeat elections by the companies; it was after two of the District companies had been raised and organized, and shut up in Fort McHenry, and the third wanted but a small number of men to make up its complement. Hence, doubtless, the anger that swelled the Presidential bosom at the presentation of the petition and remonstrance of this last company.† 2. The merit of having raised, or principally contributed to the raising of any battalion, corps, or regiment, has always, according to all precedent usage and practice, (a sort of common law for volunteers,) been a prevailing title to the command, in the absence of very grave objections to character and competency; always subject, however, to that paramount rule in the common law of volunteering, acceptance by the volunteers themselves. This particular title of merit was as strongly presented in my son's case as it was possible to be in any case, and far more strongly, perhaps, than in any preceding case wherein it had been held irresistible: for the fact is not only notorious in itself, but directly certified by unquestionable documents, that every man in the three District companies had been raised in *his name*, and by his energy, influence, and means.‡ The positive merit in this case is enhanced by comparison: for at the time when my son had raised and organized two companies, and brought a third to the eve of organization in this District, there was scarce a third of the two Maryland companies raised and mustered in; and there

* See Appendix, No. 10, 11, 12. † See Appendix, No. 12.

‡See Appendix No. 10, 11, 12,—also No. 8.

has been, as I understand, a total failure in the requisitions made, at the same time, on the States of New Jersey, Delaware, Virginia, &c.

But my son's rights are not the only rights, nor any thing like the most important rights, that have been violated and outraged in this affair. The volunteers themselves had a vested interest in the question of a commandant. Their far more important and interesting right of election has been violated; not only so, but they have been brow-beat and insulted with all the dignified insolence of unfamiliar dignity, for daring to claim the right and respectfully remonstrate against the infringement of it.*

In conclusion, I have a word to say to the suggestion in some of the newspapers devoted to the support of the Administration—that the Whig editors are preparing to make the President's conduct in this matter a ground of party attack on his Administration.

I owe the Whig party so much good will at least, as to hope they may fall into no such mistake in party-tactics.

Midst the whirl and din of events deeply affecting, for good or for ill, the present and prospective condition of our own and of other countries, and presenting to the anxious eye of the philosophic statesman a long and dim perspective of startling revolutions in the moral and political systems of two nations, how few are the persons to be found willing to turn their gaze from these phenomena, and inquire into complaints of injustice perpetrated on private individuals by the hands elected and commissioned to work the vast and complicated machine by which new ideas of illimitable vastness are to be worked out. I must say, the attempt seems to me quite hopeless of important results, even in the hands of men gifted with the highest powers of forcible and persuasive eloquence. But for myself, signal failure in such an attempt would be certain, and I might rejoice if I escaped general ridicule. For, whatever reputation, (circumscribed indeed within very narrow limits,) I may have acquired for powers to convince or to persuade the minds or hearts of men, it has ever rested on oral and extemporaneous exposition alone. Not gifted with a natural style, I have never studied or practised to acquire a cultivated one. Whenever forced to draw out my ideas systematically in written composition, it has ever been with extreme reluctance, and with far more fear and trembling for my poor little reputation, than when put to the most trying tasks of *extempore* speaking.

My friends, therefore, of both sides in politics, may be sure I would not *commit myself*, [a form of expression which, notwithstanding my general ignorance of style, I know to be barbarous,] by any printed address to the public for the price of a thousand votes on any political question.

I beg them, therefore, to believe that I have forced myself into this vindication of the rights of my son, and of his late comrades in the battalion, for the single and sole purpose of vindication; and for that purpose, the limited number of readers expected to take an interest in the subject, must be content with the style of a bill in chancery.

I witnessed a poor spirited and malignant design, to which even a father's hand was trepanned to minister unconsciously, to mortify the high-toned feeling, and slur the character of a high spirited, ardent, enthusiastic, and confiding young man, by throwing him into a position the most silly and re-

*See appendix No. 12.

diculous: as if he had foolishly assumed upon himself, without any sort of warrant, the authority to raise a volunteer battalion; and, after raising it with vast labor and cost, had been unceremoniously thrust aside as an impertinent meddler and intruder, and the command of the battalion passed over to a gentleman who had all the time stood by as a passive spectator of exertions, labors, and sacrifices, toward which he stirred not a finger, till the time came for him to stretch out his hand and receive the reward of another's pains. When I beheld the overwhelming power and influence of an *Administration* thrown against a private individual, and ignobly directed to the petty ends of crushing him under the weight, it would have been rank cowardice, if from a selfish reluctance to expose my deficiencies in the powers and accomplishments requisite to bring out the case with appropriate clearness and force, I had shrunk from still more fearful odds than I have now to encounter.

I know—no one knows better—with what impregnable barriers of political interests the man, whose motives and conduct are in question, is defended against peril to his political station, from shabby and dishonorable conduct to individuals: I know, too, how absolutely impassive is the private conscience—the possession of office with all its power and patronage being secure: but let it not be imagined that absolute impunity necessarily follows: there is a sort of secondary conscience to deal out some share of the vengeance that belongs to the true conscience; there is no bosom so obtuse that must not, in the midst of all earthly splendor and glory, blench with secret shame and bitterness, when conscious that even one solitary man of honor is witness to its falsehood and meanness: in this case the appalling consciousness that there are hundreds of such witnesses is not to be got rid of.

W. JONES.

Washington, 27th June, 1847.

[NOTE. These sheets have been kept back since they were put in press to see if any explanation of the President's conduct and motives were to be vouchsafed from the fountain head. No such condescension being now to be reasonably expected, we must be content with the case as we find it.]

[Note.—The letter, with which the following correspondence begins, was written on the day when the determination to give the command of the battalion to Capt. Hughes first escaped from the deep recesses of official bosoms where it had lain hid in impenetrable mystery, though both they who gave the command, and he who received the gift, now agree in saying, that it had been long before preconcerted and pre-arranged between them, and kept a profound secret on both sides. This, also, be it remembered, was the very day succeeding that when Capt. Degges and his officers had their interview with the President; the actual result of which was to impress on their minds the firmest persuasion that the unanimous and most earnest wishes of themselves, and of every officer and man in the three companies of volunteers, were to be gratified by the appointment of their chosen Lieutenant Colonel, Charles Lee Jones.]

Tuesday, 8*th June*, 1847.

Sir: If the affair has not gone quite beyond the point of reconsideration, I have very strong reasons for suggesting the propriety of suspending for a day or two the appointment now contemplated of a Lieutenant Colonel of the battalion, for the raising of which you were pleased to request my co-operation.

I will not absolutely believe, till all possible doubt is compelled to yield to more positive demonstration, that the President had fully considered, or indeed was entirely aware and conscious of, all the facts and circumstances that oppose the appointment in question, upon grounds no less of public expediency than of individual justice and good faith.

If encouraged by any intimation that the question is still open for inquiry and deliberation, I will, in course of to-morrow or next day, collate and lay before the President such an array of these facts and circumstances, as I sincerely hope, for the honor of the Government, may present invincible objections to the carrying out what are understood to be his present intentions as to the disposal of the command in question.

If it may please you, sir, to apprise me in course of to-day, or early to-morrow, whether the question may be treated as yet fully open to inquiry and deliberation, I shall esteem it a favor, and remain, with respect,

Your obedient servant,

WALTER JONES.

To the Secretary of War, &c., &c.

WASHINGTON, *June 9th*, 1847.

SIR: I have just received your letter of yesterday, in relation to the commandant of the battalion to be organized by the companies of volunteers from this District and two from Maryland, (if they shall be so organized.) The President had pretty much settled in his own mind, in case the companies should be raised and organized into a battalion, as to the person to whom he would offer the command of it; but as the companies are not all raised, nor the battalion organized, no one has yet been commissioned as commanding officer of it, and he may be induced to change it for good and sufficient reasons.

Your views upon that subject, if soon presented, will be received and duly considered.

Very respectfully, your obedient servant,

W. L. MARCY, *Sec'y of War.*

Maj. Gen. W. JONES,
Washington City.

WASHINGTON, 15*th June*, 1847.

SIR: Your letter of the 9th inst., in answer to mine of the preceding day, duly apprised me of the condescension with which my views on the subject of the command of the battalion would be received and considered, if soon presented. I should have instantly submitted such views to the President's consideration, had I not, in the mean time, received strong intimations of certain circumstances of which I had before no precise information, and which, if verified on inquiry, must essentially modify both the terms and the purpose of my intended appeal to the great principles of honest and wise administration which, as I conceived, stood opposed to the then understood intentions of the President as to the disposal of the command of the battalion. I therefore postponed further correspondence on the subject till the existence of the circumstances alluded to could be more certainly identified; and they are now identified beyond question.

When I wrote you my letter on the 8th inst., I had just learned that "the President had (as you say in your answer to that letter) *pretty much* settled in his own mind, in case the companies should be raised and organized into a battalion, as to the person to whom he *would offer* the command of it;" namely, Capt. Hughes of the Topographical Engineers.

When this mere approximation, as it seemed, to a conclusion which was to set aside my son, and transfer the command of the battalion to another, was first announced to me, I presumed, without the least hesitation, that it was the pure result of *second* thoughts, and of recently conceived views of expediency, which I hoped the President might be induced, in all candor, to abandon, when the indignity and injustice towards others, which such a procedure inferred, came to be more distinctly presented to his mind.

There were circumstances enough in the case to astonish me at the inclination of the Executive mind, even in the conditional or indeterminate form in which it was first announced to me. But two days had not passed be-

fore I was put upon an inquiry, which has resulted in a demonstration that the state and condition of the Executive mind on the subject varied, in some very important particulars, both from the unofficial report of it which had been communicated to me, and from the official representation of it in your letter.

Now I learn, from most indubitable sources of information, the President's declared resolution, that, under no possible state of circumstances, can he be induced to give the command of the battalion to my son.

From this it might be inferred, *prima facie*, that some facts had recently come to his knowledge, or that some disparaging representations had been made to him, which had *changed* his original intention in the matter.

But this hypothesis is met and repelled by equally well authenticated declarations of your own; namely, that the President's determination from the beginning was against giving my son the command, and in favor of giving it to Captain Hughes; to whom, in fact, it had been originally offered—when the design of organizing the battalion was first formed two months ago.

These intimations of the predetermined and fixed resolves of the Executive mind sufficiently warned me that the original design and object of the representations and remonstrances which I had projected, should be now considered as having been met and repelled at the threshhold, and that to persist longer in entertaining any such hope as I had expressed in my letter —any hope anchored in Executive faith and honor—would amount to the folly of hoping when reason should despair.

The very positive and unqualified terms in which the existence of any intention, at any time, or under any circumstances, to give him the command of the battalion, and consequently of any sort of right or authority in him to expect such command in any possible contingency, is now abnegated and disavowed by Mr. President Polk and yourself, may expose him to divers imputations bearing a formidable aspect, when the grave and reverend authority on which they rest is considered. And to no imputation, inferring less of ridicule and disgrace, than the folly and presumption of having originally usurped, without color of right, the character and authority of designated commandant of the battalion; and, by means of such usurpation, having enrolled more than 200 volunteers: folly and presumption so much the more gross and flagrant, as vast sacrifices of time, labor, and money were devoted by him to that object.

I, too, am laid open to the suspicion of having, in a manner, abused the trust reposed in me, when my co-operation in raising the battalion was invoked by the Government; for I openly countenanced, and unequivocally adopted, my son's pretensions to the character and authority assumed by him, and encouraged volunteers to enrol themselves under him.

If, in all this, I am supposed to have countenanced and abetted an usurped authority, one thing is proved to you beyond all question, and is a matter of the utmost notoriety in this community; namely, that I countenanced and abetted the most efficient means for fulfilling your proposed end of raising the companies; and that to such means you owe every man enrolled in them. In truth, I know not but there may be found other and more illustrious accessories, besides myself, participant of the offence of

countenancing and abetting this sort of usurpation. Mr. President Polk and yourself, mayhap, stand in that danger; since, by taking and appropriating to yourselves all the volunteers enrolled by means of the usurpation charged on my son, you reap and enjoy all the fruits of such usurpation. Admit the relative positions which you assume for yourselves, and assign to him, and the analogy to the thief and the receiver of stolen goods seems not too remote.

Again, the unflagging zeal, industry, and perseverance with which my son prosecuted his scheme of raising the battalion, and the extent of the sacrifices thereby incurred, all attest the sincerity, at least, with which both he and myself trusted to the security of the position assumed by him. Then the world is to learn at this time of day, (with what astonishment 'tis not for me to say,) that both he and myself are liable to such stupid mistakes—resulting from such intellectual blindness to the true import of facts and evidence before our eyes, as the abnegations and disavowals of Mr. President Polk and yourself seem to imply.

Now, sir, I ask you to go with me in a dispassionate review of the actual facts and circumstances under which my son, with my full concurrence, assumed the position of commandant of the battalion. But I ask not this with any such view as was contemplated when I first proposed to call your attention to the subject. I am not now seeking to reclaim the command of the battalion for my son, clearly as I see and strongly as I feel the injustice of depriving him of it, and far more the disparaging ends and aims which the discourteous manner and circumstances of that act betray. If I were now to ask you to withdraw from Capt. Hughes and return to my son, I should find the horns of a very amorphous sort of dilemma thrust forward. Both gentlemen have derived from the same pure and illustrious source undeniable, but absolutely repugnant, claims to the very same thing: on the one, the command is said to have been originally bestowed in advance, whilst it was but a name, and depended on future contingencies to bring it into being; to the other, whilst the naked gift, already made or promised, was dissembled and concealed, the prospect of ultimately earning the same command is held out as an inducement for him to devote his energies and resources to the end of calling into existence the battalion, without which the promised command was valueless and nugatory. Thus is created a positive obligation to bestow upon both what cannot possibly be taken but by one. In such a dilemma I could not hope for any success in an attempt to establish my son's claim against that of Capt. Hughes, unless I could undertake to prove that consistency and honor would be far more outraged by taking back from Capt. Hughes what, but for my son's exertions, would have been a barren gift, than by taking from my son the hard-earned reward of those exertions. But as I cannot, with safety to my own consistency and honor, undertake to maintain the claim upon such principles, I must be content to forego it entirely.

But the following statement may convey to you some notion of another debt of justice which may yet be paid without danger from the horns of the amorphous beast that blocks our path in the other direction. Let us suppose that a refuge for official consciences may be found in the honest convictions of Mr. President Polk and yourself, that an unforeseen and unlucky combina-

tion of circumstances, without blame to either of you, had led to a total misunderstanding of the President's genuine intentions, latent or patent, when he was understood to have thrown out inducements to my son to raise the battalion, or three-fifths of it, with the command of it in expectancy upon the event of his performing that meritorious service. Still methinks you cannot fail to see how imperative is the duty of giving an unequivocal acknowledgment that the circumstances then apparent did, *prima facie*, warrant the conclusion on which he acted; without any possible means on his part of detecting the latent fallacy, if any such there were, in the premises from which he drew his conclusion.

I will carry this statement back to certain antecedents, having necessary connection with the matter in hand, as showing how clearly my son was justified in concluding that he had long been considered by the Government as worthy of such a command, and in expecting that, whenever an opening should be presented for raising a volunteer battalion in this District, the Government would offer him an opportunity of raising it, and of course give him the command of it when raised.

You may recollect that in November last I waited on you in person with a proposition in behalf of my son for authority to raise a volunteer corps or battalion for service during the war, under sanction of a preliminary assurance of its being received into service as soon as raised. This proposition, as I found, was to be laid by for consideration when the President should be relieved from the press of business then on hand. In the mean time my son, in a letter to Judge Mason, explained the object and plan of his proposed battalion, and requested his patronage of it, if he deemed it worthy of support. The mode in which that excellent man chose to recommend the plan was, as I understood, to hand over my son's original letter to the President or to yourself, with his recommendation endorsed on it. I know not the exact purport of that endorsement, but always understood it was decidedly favorable to the plan and to the proposer. The paper, however, being still on file as I presume, may explain itself. This was in due time followed up by renewed instances in letters addressed to yourself; your answer to which informed him that the Government did not then contemplate calling for additional troops of that description; but that if the state of the war should make a further call for volunteers necessary, his patriotic offer should be as favorably considered as a due regard to similar offers from other quarters might justify.

He was then advised by some influential friends in Maryland to modify his original project of a battalion, by connecting it with the Maryland or Baltimore battalion then in the field, and to which two companies from this District were attached. The senior captain had assumed command of that battalion on the fall of Lt. Col. Watson at Monterey; but the Governor of Maryland had refused to commission him as Lt. Colonel. The modified proposition was to compose a new regiment of the six companies already in that battalion, and four others to be raised by my son in this District.

The proposition in this form was submitted to you by Senators Crittenden and R. Johnson, and backed by their earnest recommendations. At that time the bill (afterwards passed into a law on the 11th February) for raising ten additional regiments, one of cavalry and nine of infantry, was pending

before Congress. You returned to those Senators the same answer, substantially, as before to my son—that the Government was not disposed to call out more volunteers: but you went on to add, if the bill for raising the ten regiments should pass into law, then my son should have a Lt. Colonel's commission in one of the regiments; or he might then raise a battalion and have it attached, under his command, to one of the regiments. Such was the immaterial difference of terms (utterly immaterial and indifferent to him) in which the two Senators respectively reported to him the substance of their conversation with you.

In two days after the ten regiment bill had passed into law, my son addressed you a letter, in which he reminded you of his former applications for permission to raise a volunteer battalion; expressed the same confidence as formerly, that it was still in his power to act efficiently in raising at least a battalion of very choice recruits to join any regiment to which they may be assigned in the organization of the new regiments now to be raised;" and his letter concluded with a specific application "for a field-officer's commission (say as Lt. Colonel) in one of the new regiments." Thus was the option presented, either to give him a Lt. Colonel's commission simply, or upon condition of his raising a battalion of choice recruits to be united with one of the regiments.

This application was (as he truly said) backed by the strongest recommendations from many and eminent persons both in private and in public life, without distinction as to political parties; and among others, from twelve Senators and twenty-nine Representatives, coming from one or other of nearly all the great sections of the Union, and including the prominent and leading members of the opposite parties into which Congress was divided.

After waiting some time for an answer, my son called on you in person, in order to learn the issue of his last application, and was then told that you had newly found a peculiar objection to it, which was grounded in some calculation of a ratio between the aggregate number of field-officers in the ten regiments, and the aggregate population of the United States; from which it was concluded that the population of this District was not sufficient to entitle it to a field-officer.

From this conclusion it appeared that a large and influential number of Senators dissented; and early in March, shortly before the adjournment of Congress, eighteen Senators, among the most eminent and leading members of their body, representing all sectional interests, and all sides in politics, concurred in a joint letter in which they conveyed to you their decided opinion that a field-officer ought to be appointed from the District of Columbia in one of the ten regiments, and recommended Mr. Charles Lee Jones for such officer.

His last application on the subject was about the middle of March, when, concluding from certain indications of affairs in Mexico, that the more recent progress of events might give rise to a change of the former views of the Executive in regard to volunteers, he waited on the President, in company with the Adjutant-General, and renewed his former offer of a volunteer battalion, but found that the President still entertained his former opinion against any addition to the volunteer force.

From that time he reluctantly abandoned all hope of being gratified with

the military employment which he had been seeking for the preceding four months, and was dismissing the subject from his mind, when, in the course of four or five weeks afterwards (about the middle of April) the first official communication on the subject of the battalion now in question quite unexpectedly reached him.

The terms of that communication—the authority on which it rested—and its consequences, remain now to be told.

This communication came through the Adjutant-General direct to my son, substantially to this effect: that the President had at length concluded to accept a volunteer battalion of three companies from this district, and two from Maryland, under his (my son's) command as Lt. Colonel; and the Adjutant-General advised him to set about raising the three District companies without delay. But he declined proceeding without being first enabled to show the volunteers invited to join his standard written and unequivocal assurance from the fountain head of authority that the battalion, when raised, would be accepted and mustered into service. In fact, several circumstances at that time concurred to render the attempt to raise the battalion more burthensome and difficult than it would have been some months earlier; and when the official requisition for the battalion came afterwards to be published under my authority, gentlemen most familiarly acquainted with the state of popular feeling here predicted its certain failure, and expressed the opinion that no individual, whatever his popularity and influence, could raise a single company.

Upon being asked by the Adjutant General in what form he desired to have this authority, he suggested a requisition from the War Department upon myself as Major General commanding the District militia; and, in a day or two after, he was informed by the Adjutant General that such a requisition was to be made. The requisition being delayed longer than was reasonably to have been expected, my son waited upon you to learn the reason of the delay, and was informed by you that the paper had been prepared, and sent to the President for his approval; that the matter was settled, and the requisition should be sent out as soon as approved and returned by the President. In point of fact, it turned out that the requisition which you referred to, and bearing date on the 19th April, had been approved by the President, but had been lost or mislaid, so as to make it necessary to prepare another, which was finally approved and issued under date of the 24th April; though still referred to in official documents as of the original date of the first paper. I had been for some time absent, and did not return till about the first of May; but when the requisition (so called) came from the Department, addressed to me on the 24th April, my son immediately commenced with extensive and important arrangements for carrying on the enrolment of volunteers.

If I and my son were in error as to the primary intention of Government in this matter, it was an error common to us and to the country far and near. It is just as notorious to you as to me, and to the whole community, how universal and implicit was the understanding among all classes of people here, in office and out of office, that the battalion, when raised, was to be under his command; and no less so among all classes of people in other parts of the country, who had given any attention to the current reports of

the matter. The credited rumor, pointing out the commandant, was simultaneous and coextensive with every notice of the battalion itself. Even before the promulgation of any official notice of the call for the battalion—before the paper called a requisition was issued from your Department, prevalent rumor, carrying with it general credit here and elsewhere, invariably connected my son's name, as the commandant, with every mention of the intended battalion; and in that form the standing correspondent of a paper in the interest of the Administration, and who enjoyed as free access to the sources of official information here, as most writers of his class, transmitted his news of the intended battalion as early as the 23d April.

Having alluded to the universality of the understanding that existed as well among persons *in office* as out of office, as to the person of the intended commandant, I say further, and say it no less upon your knowledge and consciousness of the fact than upon my own, that such understanding was universal and consentaneous among all the officials, civil and military, employed in your immediate Department, and in the various branches of administration dependent on it or connected with it; and that they acted practically upon such understanding, in every instance when called to act at all in any matter concerning the battalion, which required that its *commandant* should be looked to.

Among the various illustrations of this fact that might be quoted, the records of your Department bear witness to one unequivocal instance.

The staff officer, who was ordered to muster into service the men volunteering in the battalion, formally and technically mustered them into "*the battalion of volunteers, commanded by Lieutenant Colonel Charles Lee Jones, called into the service of the United States by the President under the act*," &c.; and the captions to the muster rolls of all three of the companies are of that purport. The officer was careful in the customary charge or warning, delivered orally to the men as they were successively mustered in, so to specify the battalion in which they were enrolled and mustered; and that form was invariably observed in every case, as late, at least, as to 8th instant, when all intervention in the business ceased on the part both of myself and my son.*

I understand from one of the volunteers who, after the announcement of Captain Hughes as commandant of the battalion, waited on you with some representations on the subject, that, when he referred to this fact as giving the men some vested rights in the question of a commandant, you manifested some displeasure, sent for Captain Townsend, directed him to produce one of his muster rolls, and, after inspecting it, demanded of him by what authority he had so framed it. His answer, as reported to me, was perfectly conclusive, and ought, as I humbly think, to have been deemed entirely satisfactory; namely, the men had all been brought forward and offered for inspection and muster by Colonel Jones in person, as volunteers procured

*Note.—In addition to this fact of the volunteers having been all enrolled and mustered in my son's name, and in a battalion described and specified as being under his command, there was another instance of official recognition no less unequivocal and notorious, namely, that, at the suggestion of the proper officer of the Commissary Department, he actually appointed an acting commissary (Lieutenant Addison) for the battalion; and the authority of the commissary so appointed was recognised by the proper officers of the Department.

by him and wishing to be mustered into his battalion, the men themselves coming forward upon that footing and upon no other ; and as it was necessary, as Captain Townsend conceived (and, I say, most justly conceived) that the battalion and its commandant should be specified in the muster roll, he had inserted the name of Col. Jones, not doubting that he was the person to whom the command was assigned, as generally understood. Upon this you intimated something like a threat to break up the battalion and send out the companies to be assigned, either separately or together, to such battalions or regiments in Mexico as might be found expedient.

In this give me leave to say, Mr. Secretary, you meditated a direct outrage upon both the legal and equitable rights of these volunteers, as I will presently show you, and as I have no doubt you will admit upon calm reflection. I wonder, however, when you were quarrelling with the official recognition of a particular commandant of the battalion, you had not gone one step further, and renounced the *entire act* of enrolling and mustering in, as resting upon no authority whatever ; since you disavow the authority of him who procured the act to be done, and disclaim all the essential *terms* and *conditions* on which the men *agreed* to be enrolled and mustered in. Both the law and the ethics of your Department must be somewhat peculiar, methinks, if the whole consideration—all the essential terms and conditions, on which one party undertakes to perform a contract—may be set aside as originating in error and mistake ; and yet the party be strictly held to all the burthensome stipulations of the contract, upon other terms and conditions arbitrarily imposed on him.

If the nature of the enrolment required the battalion to be specified in the muster-roll, how could it be so properly specified as by naming its commandant, according to the universal rule and usage of army enlistments? Then what other could possibly have been so named, than he who had been implicitly recognised by all officially concerned in the matter as the commandant, and who was found *acting* as such, and notoriously exercising, without question from any quarter, so many and so important functions incident to the position and character which he had assumed? As to Capt. Hughes, he took no concern or interest in the matter, and, in fact, he was never heard of, or thought of, as having any connection whatever with the battalion, till the announcement from you on the 8th inst. of the intention to give him the appointment; an intention now said to have been definitively resolved and settled from the beginning, yet studiously dissembled and concealed during all the six weeks or more that my son was known to be laboring with so much zeal, activity, and efficiency in the proper business of commandant.

Now the precise scheme, officially promulgated from your Department, on which the companies of volunteer infantry were to be enrolled, purported that they were to be *formed into a separate battalion, and commanded by a Lieut. Colonel, to be appointed by the President from the District of Columbia; the battalion staff to consist of one Adjutant and one Assistant Surgeon.* That proposal of the scheme lay at the foundation of the contract between the Government and the volunteers; and they had a right to insist on its fulfilment.

It was equally just and expedient, either that the commandant should be

named and known beforehand, or else that the choice of him should be left to the companies composing the battalion. I certainly would not have taken any part whatever in promoting the enrolment of volunteers without having the appointment of commandant fixed upon one or other of those bases; for I could not disguise from myself the moral responsibility assumed by me, since it was inevitable that my personal character and influence must operate with more or less effect in drawing out volunteers; and, be the effect great or small, I never would have consented to contribute one particle to produce it, without knowing beforehand what manner of person it was to whose care I was inducing thoughtless men to commit their well being. But looking to the single view of devising the most efficacious means for accomplishing the given object, nothing was more expedient than to interest a competent, active, and popular leader, in the business. Such an one would be able to institute arrangements far more comprehensive and systematic, and to give far more concentration to all movements towards the organization of the battalion, than it would be possible for the captains of companies, by their isolated efforts, to accomplish. The necessity for the prompt action of such a leader was felt at every step of our progress in this very case. Whilst the companies were incomplete, and without commissioned officers, no pay or subsistence could be drawn for them; and they were obliged to remain dependent on some one for all their comforts, and even for their subsistence. One of these companies is actually in that condition at this time; and now, twelve days after my son has been superseded, the men of that company are boarded on his still continuing credit and responsibility, and one of his houses is given up for a place of rendezvous and of lodging.

It was no part of my duty or business as commandant of the ordinary militia to meddle at all in the business of raising volunteer companies or battalions for service in Mexico or elsewhere; when I accepted your invitation to "co-operate in raising and organizing this force," it was purely optional on my part, as I presume you, equally with myself, understood at the time.

In whatever degree I may be supposed to have been influenced to undertake the task and exert myself to accomplish it, by finding, as I supposed, that the known energy and activity of my own son was to be put in requisition as the designated commandant of the battalion, still I would have joined heart and hand with the more regular agents of Goverment in promoting the plan, had any other commandant, entirely approved by myself, been indicated, or had the choice of one been secured to the companies; and such was my opinion of Capt. Hughes, as a gentleman and an officer, that I would have acted most willingly and frankly, had he been indicated as the comandant. But in reference to him, I must in candor say, that, I have the strongest reasons for believing that had he, or any other officer of his class, been in the first instance nominated to the command, it would have operated a very serious impediment to our exertions to raise the companies; and I doubt extremely, whether one half the men now mustered in could have been obtained; for the prejudice which has so extensively, and, as I think, unhappily, got possession of volunteers in general, against having officers of the army set over them, is, I know, very strong here, and pervades to a very great extent the minds of the companies now raised, and in the course

of being raised, for the proposed battalion. Whether the treatment to them, or to any of us who have been co-operating to advance the supposed views of the Administration in this matter, and to that very limited extent have been placed in some sort of confidential relation to it as we supposed, be calculated either to mollify this prejudice, or to satisfy any sense of honor, such as informs the breasts of honorable men, is a question which 'twere bootless to discuss; you have got the men into your hands, most of them shut up in a fort, and all to be soon transferred to camps in distant lands and unknown regions; as to the rest of us, we may be all safely thrown aside as used and unregarded instruments, whose ill-treatment would weigh not a feather against the political interest of the public men with whom we have had to do, and, of course, be no burthen on their consciences.

Had we been permitted to go on to the end as we began, with the organization of these companies, I assert, with great confidence, that all of them might have been raised and organized within the first month. I soon perceived, that some of the more narrow-minded and virulent of the political partisans in this city had set to work to undermine and traverse our operations, and to bring our motives and conduct into suspicion on party grounds. But I knew that, unless encouraged by Government countenance, they could do nothing. With the great mass of politicians of both sides my relations were those of kindness, and of unlimited confidence in all matters not involving political or party principle; and I trusted that the Administration had good sense and good feeling enough to understand how to deal with frank and honorable men, though political opponents, who undertook to co-operate with it in any matter of public concern, not trenching upon the lines of party division; and would not deal in half confidences and half suspicions. For my own part I never stopped even to consider to what political party any of the officers recommended by me belonged; I knew not the political bias of any one of them*; and if I had taken politics into account at all, it would have been my choice to bring together men of all parties, and let them embrace as brother soldiers, and sink for the present all political disagreements in the one great purpose of fighting their country's battles. That glorious feature in the conduct and demeanor of most of our volunteers in Mexico goes, as I always thought, to compensate many of the miseries of a miserable war. I did presume that the Administration would, in this instance at any rate, throw itself upon the support of the braver and more generous spirits who constitute the mass of its political adherents; and not, as is too generally the case, prefer conciliating and flattering the violent or ignoble passions of the intemperate or the sordid.

Whatever of encouragement, direct or indirect, such persons received from you (I use this pronoun in a collective sense) I know not; but I do know, that men professing to be your thorough-going partisans, and known to be in the habits of free intercourse with you, undertook to speak in your name, when they gave out not only intended appointments in the companies, but one appointment of Lt. Colonel, which every militarily disposed man would have treated as a sort of burlesque of the office, and which, if certainly an-

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* Note.—I have since ascertained that of the eight company officers commissioned on my recommendation, five are of the party called Democratic, and three of that called Whig.

nounced from competent authority, would at once have disbanded every volunteer company, whether complete or incomplete in its organization; and which did, in fact, a good deal discourage enrolments for a time.

I thought it evident that one very extraordinary procedure of your own originated in the unhappy bias that gives such undue influence and weight to partisan clubs and associations, where the rash and violent meet to gratify their appropriate passions, and the small intriguer for his more sordid ends, of which he makes the rash and violent the unconscious instruments. The particular matter to which I allude is this: after my son had been going on for about three weeks in the notorious and unquestioned exercise of the functions incident to the position of one who was to take command of the battalion, he happened to call on you to propose some arrangement for the benefit of the battalion, when you took occasion to question him about the grounds on which he seemed to count so certainly on having the command of the battalion: the manner in which he supported and justified the position assumed by him, I need not repeat; as I have already explained the ground on which it had been assumed as a matter implicitly understood and settled that he was to have the command. The only grounds on which you seemed disposed to draw in question his right to consider the matter as so settled, was that he had held no conversation either with you or the President, in which either *had promised* him the command; and, when this was answered by a reference to the communication of the President's intention which he had received through the Adjutant-General, you suggested the further difficulty that perhaps his officers and men might not like to serve under him.

Such was the very first occasion on which you had hinted at any difficulty or objection in the matter. My son being then in the mid career of extensive arrangements and untiring exertions in the cause of the battalion, had no thought of stopping on any such hint as this, but determined, (as he told you,) to go on as he began, and leave the responsibility on the President to fulfil or set aside the pledge, express or implied, on which he had entered upon the business; as to the choice of the officers and men which you suggested, why, if the question were to be left to that, he felt just as sure of his commission as if he had it in his pocket.

I felt anxious to ascertain precisely your views on the subject, and for that purpose called on you a day or two afterwards. I found you evidently anxious to get rid of the subject and of me, and to say as little about it as possible; all I could collect was distinctly this, that the President did not consider himself as *committed* on the subject, and that *no appointment was intended to be made till the companies were raised and organized.* You then apologized, on account of urgent business, for declining to pursue the subject at that time; I immediately took leave, and have never had the honor to see you, or to renew the subject in any form, since.

Now, sir, I desire to know more precisely the meaning of this *non-committal* (to use a technical, if not a slang expression of the day) which you asserted for the President; what were the words from which the Adjutant General inferred a distinct overture to my son to raise the battalion, with the command of it in expectancy, and felt himself authorized to make official communication of that overture? Do you mean to deny that a pledge, or

commitment, as you phrase it, can be implied as distinctly as if expressed; or to assert that nothing short of an express promise, given directly from the mouth of the President or yourself to my son, could authorize him to claim the command?

I have forborne, for certain reasons of delicacy, to question the Adjutant General about the details, and am therefore ignorant of the precise terms in which the President expressed himself on the occasion in question; nor do I think it signifies a straw in what words he chose to couch his meaning, or what loop-holes for small quibbling may have been left in the structure of his sentences. 'Tis enough for me, and equally satisfactory to the world, that an officer so confidential, so experienced and intelligent, so thoroughly versed in military usage and language as the Adjutant General, clearly understood what was said as amounting to the overture in question, and found himself authorized to communicate it officially as such.

But suppose that officer more liable to mistake in such a matter than any one who knows him would be willing to admit, yet his construction and understanding of the words, whatever they were, that fell from the President's lips, has been stamped with conclusive authority by the President's entire acquiescence in the sense put upon his words. I need not again advert to the publicity, the universal notoriety, of the position assumed and so long held, without question, by my son, and of the energetic and active measures pursued by him as holding the ostensible position of designated commandant of the battalion. That being seen and acquiesced in for so long a time, without a hint of any error or mistake, is the most absolute bar that either legal justice or moral justice can set up against allegations of mistake now.

But there is another view of this matter that bears very hard upon my mind, and which I commend to your especial consideration. It now appears, from Mr. President Polk's and your own versions of your actings and doings in the premises, that the absolute exclusion of my son from the command, and the appointment of Capt. Hughes, was a matter predetermined and fixed from the beginning; then, sir, I desire you to remember, that not only has this fact been concealed, but studiously dissembled to the very last moment; concealed, on occasions and under circumstances, when mere silence was completely equivalent to denial of it.

I will refer briefly to the several occasions on which both you and Mr. President Polk either studiously dissembled, or practically denied, the fact so positively asserted by you since, in both its aspects, of the predetermined exclusion of my son, and the pre-arranged appointment of Capt. Hughes.

1. When, after my son had been more than three weeks deeply immersed in all the burthensome details of raising and organizing the companies, you first suggested some question of his appointment.

Then you went no further than to deny any *promise to him* from the President or yourself; and then suggested possible doubts of the officers and men electing to come under his command. Now, the raising of the two difficulties was gross absurdity, if my son stood already condemned by predetermined exclusion, and Capt. Hughes was to be brought in by pre-arranged appointment. If such were the facts, how was it possible that the willingness of officers and men to serve under him could have any effect whatever on my son's appointment, either for it or against it?

2. In your conversation with me you asserted that the President was not committed. How not committed; if, as you all now say, the appointment had been offered to, and accepted by, Capt. Hughes six or seven weeks ago? You further said the appointment would be held open 'til the companies were raised and organized. How so; the appointment having been long before settled on Capt. Hughes?

3. On the same day, or the day after my aforesaid call on you, three or four of the volunteer officers went to converse with you on the same subject. To them you were even more explicit; saying that the President was not committed to any one as to the appointment of Lt. Colonel; that it was yet open to competition among all aspirants; and would be disposed of, according to circumstances, when the companies were organized. I need not repeat any reference to the discrepancy here so palpable.

4. Mr. President Polk dissembled and concealed it to a still later period. Captain Degges and his subalterns called on him to pay their respects and take leave, the very day after his return from N. Carolina, Monday, June 7th. Their minds being full of the subject, and anxious about it, they took that occasion to express fully and freely their wishes for the appointment of my son. The President did not for some time make any remark in reply to their instances; but at last, finding that they were still dwelling on the subject, he smiled in the most affable manner, desired them not to make themselves uneasy, and assured them *that all would turn out right at last*. They, good, simple, straightforward souls, would understand this as amounting to acquiescence in their representations, and an implied assent to their request. They came away, accordingly, with an absolute confidence that the appointment was certainly to fall on their chosen commander; and their disappointment and astonishment were so much the greater when, on the very next day, it was authentically announced to them that the appointment had been already settled on Capt. Hughes. As to the critical accuracy of the construction which they put on the President's words and manner, I have nothing to say. But I will say this much—I should very greatly prefer to be accounted a fool for understanding the thing as they did, than to be the great politician so deeply skilled in the diplomacy of intercourse with my fellow men, as to be able to conceal my thoughts with such exquisite finesse as to insinuate the conclusion of their being quite the contrary of what they really were.

There is one point on which the President seems to have departed in this case from all the maxims which he has hitherto laid down as to the appointment of officers of volunteers. In this case the companies had doubly elected their Lt. Colonel: first, by voluntarily enrolling themselves under him by name; secondly, by unanimous vote. Not only has their vote been set aside, and their choice of a particular individual disregarded, but the fundamental terms of the enrolment, as officially held out to them when they did enrol themselves, have been violated by the appointment, against their will, of an officer *not from the District of Columbia*, but from a place which, of all others, they would have eschewed—the army.

If there be any thing in this prolix letter that appears to you offensive, you will do me injustice if you think it was written in a spirit of resentment, and with design to wound or offend.

The fulness of detail into which the letter goes, seemed necessary for the complete vindication of an individual against whom the collective power and influence of a Government, whose power and influence is enormous, has been thrown, most unworthily as I think, for his disparagement.

There are several points, easily separated from the mass of the connected matter, which strike me as calling imperatively upon the public functionaries concerned, for some apologetic explanations to clear their own skirts from strange implications of crooked counsel and great administrative powers perverted to ends of little and obscure interests and passions. I have dwelt with some emphasis on these for the purpose of indicating the points on which I should be happy to receive some explanation, which might relieve my mind from feelings of aversion which it is very far from pleasurable for me to entertain.

I have the honor to remain, sir, your obedient servant,

WALTER JONES.

W. L. MARCY, ESQ., *Sec'y of War, &c., &c.*

MONDAY, 21*st June*, 1847.*

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*The foregoing letter has been purposely held back until this date, so that we might be positively assured, as we are now assured, that Capt. Hughes had been formally invested with the command of the battalion beyond recall, and had actually assumed it. I was determined to foreclose the possibility of suspicion in any mind, that either I or my son, after a knowledge of the circumstances stated in the foregoing letter had been communicated to us, could now condescend to any course of remonstrance intended, directly or indirectly, to have the effect of restoring the command to the hands entitled to it, or to enter into any sort of competition with any one for it. No—as Capt. Hughes has won the appointment without a claim, so let him keep it without a rival. I sincerely hope and confidently expect that he may do far more honor to the command than it is possible for the hands from which he received it to bestow upon him.

APPENDIX

OF

ILLUSTRATIVE DOCUMENTS.

No. 1.

WASHINGTON, *Nov. 28th*, 1846.

Hon. JOHN Y. MASON, *Secretary of the Navy.*

DEAR SIR: My father, as General Commanding the Militia of this District, has communicated to the Secretary of War the wish and desire of myself and others, within his command, to form a battalion of four full companies of volunteers, to enter into the service of the U. States immediately, during the war, unless sooner discharged. The Secretary of War is now possessed of the scheme and prospects of this corps, and will lay the subject before the President as soon as some intermission of their more immediate and pressing engagements may permit. We have every reason to expect to raise this corps out of the best materials. But the great mass of those wishing to join it are so circumstanced in their private affairs, that, before interrupting their ordinary avocations for military organization, they desire to have some assurance of being called into active service as soon as they are organized, and passed the necessary inspection. I have conversed with the Adjutant General of the Army, and he seems very favorably inclined, and thinks it highly probable that the prompt organization and acceptance of such a corps may be deemed expedient by the President. I understand it is the opinion of most of our intelligent military men that the actual, and more especially the prospective, state of the war calls for a larger force of volunteers than is now actually called for; and that even the completion of the nine regiments called for in the last requisition on the States is very far from certain, but with long and inconvenient delay. This condition of things has stimulated the patriotic feelings of our intended volunteers here, and induced them to hope their zeal to serve their country may be found acceptable, and have an early opportunity of manifesting itself in action.

I have taken the liberty to put you in possession of these our wishes and intentions, in the hope that it may fall in your way, either as a member of the Cabinet, or otherwise, to countenance and advance them.

I beg leave to add, in conclusion, that all practicable expedition in the decision of the question is much to be desired. The spirit for the enterprise is now alert; and very many of the men most to be desired in such a corps, and who are now ardent to join it, are in such a condition of life that they may be compelled, in case of much delay, to devote themselves to other pursuits incompatible with the enterprise now contemplated by them.

I am, with great esteem, your friend and obedient servant,

CH. LEE JONES.

No. 2.

WASHINGTON, *December 7th*, 1846.

Hon. W. L. MARCY, *Secretary of War.*

SIR: Since my father had the honor of communicating to you in person the proposal, on behalf of myself and others, who originated it, of a volunteer corps, not less than a battalion, to be raised in this District, with a view to immediate service with the Army of the U. States, during the war, unless sooner discharged, I have waited, before troubling you again with the application, till I presumed you and the President had been so far relieved from the urgency of other and more important affairs, which then precluded your attention to it, as to admit of its present consideration.

Some general information from sources on which much reliance is placed, has induced those who desire to join the proposed corps to infer that the actual or imminent exigencies of the war may demand a more considerable force of volunteers than has yet been called for by the Government; at any rate, more than there is any certainty of having completed, organized, and equipped for service in time to answer the views of the Government, and the probable exigencies of the war. This impression has stirred up an active spirit of patriotism and enterprise among a class of our citizens capable of supplying very choice materials for such a volunteer corps as we contemplate. We, of course, defer implicitly to the far better information and judg-

ment of the Government to determine whether the conclusions we have drawn, as to the wants of the public service, be well founded. In that case, I beg leave to remark, that the citizens, qualified to form the most valuable constituents of the corps, would like, before they encounter the expense and loss of time required for the organization and training of the corps, to be assured that, when so organized, inspected, and approved, they would be received into the public service during the war, unless sooner discharged. Upon receiving this assurance, I think such a corps as the Government might confide in would speedily enroll themselves, and proceed with spirit and alacrity to efficient organization.

I have the honor to be, sir, your obedient servant,

CH. LEE JONES.

This was followed by another letter on the 19th, requesting speedy attention to the subject.

No. 3.

WAR DEPARTMENT, *December 22d*, 1846.

SIR:—In reply to your communications of the 7th and 19th instant, proposing, on behalf of yourself and others, to raise a volunteer corps in this District, with a view to immediate service with the army during the war with Mexico, I have the honor to inform you, that it is not contemplated at this time to call for additional troops of this description. Should the state of the war render further call for volunteers necessary, the Department will take pleasure in giving as favorable a consideration to your patriotic offer as a due regard to similar offers from other quarters may justify.

An unusual press of business has prevented the Department from making an earlier reply to your letter of the 7th instant.

Very respectfully, your obedient servant,

W. L. MARCY, *Secretary of War.*

Mr. CHARLES LEE JONES, *Washington city.*

No. 4.

WASHINGTON, *Feb. 13th*, 1847.

Hon. W. L. MARCY, *Secretary of War.*

SIR: I beg leave to recall to your memory my former application to be permitted to raise a volunteer battalion for immediate service in Mexico, during the war.

I do so by way of introduction to the present application, which I have been induced, by the same motives that dictated the former, to lay before you, since it has been resolved by the Government to dispense with all additional corps of volunteers, and trust to the new regiments authorized by the recent act of Congress, as a sufficient increase of the strength of the army.

I feel the same confidence, which I formerly expressed in relation to the volunteer battalion then proposed, that it is still in my power to act promptly and efficiently in raising at least a battalion of very choice recruits to join any regiment to which they may be assigned, in the organization of the new regiments now to be raised.

I am still earnestly bent on entering the service; and I feel encouraged in my views by the approbation and support of so many and so eminent persons, both in public and in private life, that I do not hesitate to solicit your attention to the application which I have now the honor to submit for your consideration; and that is, for a field officer's commission (say as Lieut. Col.,) in one of the new regiments.

I have the honor to be, with the highest respect, your obd't serv't,

CH. LEE JONES.

No. 5.

Hon. W. L. MARCY, *Secretary of War.*

The undersigned beg leave to recommend to your favorable consideration the application of Mr. Charles Lee Jones, for a field officer's commission in one of the new regiments now being raised.

Very respectfully, your obd't serv'ts,

[Subscribed by twelve Senators and twenty-nine Representatives.]

No. 6.

Hon. W. L. MARCY, *Secretary of War.*

SIR: We think a field officer ought to be appointed from the District of Columbia, in one of the ten regiments now being raised, and recommend Mr. Charles Lee Jones for such officer.

Very respectfully, &c.,

[Subscribed by eighteen Senators.]

The originals of this and of the preceding recommendation, (now on file in the War Department,) shewing the names of the eminent gentlemen of the two Houses of Congress who subscribed the two recommendations, will fully bear out what I have said (page 17,) of their character and standing; and how completely they represent all the diversities of party-politics and sectional interests.

No. 7.

WAR DEPARTMENT, *April 24th*, 1847.

SIR: The President having decided to accept the services of three companies of volunteer infantry, from the District of Columbia, to serve during the war with Mexico, which, with two companies to be raised in Maryland, it is proposed to form into a separate battalion, I have the honor to request your co-operation in raising and organizing this force, with a view of its being sent to the theatre of war with the least practicable delay.

The Adjutant General will be instructed to furnish you with such details as are necessary to be observed in receiving volunteers into the service of the United States.

Very respectfully, your obedient servant,

W. L. MARCY, *Secretary of War.*

Major General WALTER JONES, *Washington, D. C.*

This communication was accompanied by one from the Adjutant General, giving further details of the organization of the proposed battalion, and, among others, that "the battalion will be commanded by a Lieut. Colonel, to be appointed by the President from the District of Columbia."

No. 8.

Caption of the official muster-rolls of the three District companies; being an adaptation of the established form of muster-rolls in the regular service to the circumstances of this volunteer battalion.

"Muster-roll of Captain [W. H. D's] company in the Washington battalion of volunteers, commanded by Lieutenant Colonel Charles Lee Jones, called into the service of the United States by the President, under the act of Congress, &c., from the 11th day of May, 1847, (date of this muster,) during the war, unless sooner discharged."

In that form, and upon such terms and conditions, was every man in the three District companies mustered into the service of the United States, by the staff officers of the United States who were ordered to that duty; and such was the single and only show or pretence of title to claim them as men bound to military service, on the 8th June, when it was suddenly announced to them that they had been induced to volunteer, and had been mustered and received into the service, under a fundamental mistake of the terms and conditions of their consent to enter the service.

No. 9.

Appointment by Lt. Col. Jones of H. S. Addison, 1st lieutenant of Capt. Degges' company, as assistant commissary for the battalion, &c.

"Mr. Henry S. Addison will please act as commissary until such officer shall be permanently appointed for the three companies of volunteers from the District of Columbia, now being mustered into the service of the United States.

(Signed) CH. LEE JONES."

"WASHINGTON, *May 12th*, 1847."

Under this appointment, and with no other authority, Lt. Addison made contracts on public account, which were recognised and paid at the Subsistence department after the companies were organized.

No. 10.

WASHINGTON, *May 27th*, 1847.

SIR: It is the unanimous wish of the officers and men in our company that they should be commanded by Lieut. Col. Charles Lee Jones, it having been in his name, through his influence, and by his means, that every man in the company has been raised.

I have the honor to be, very respectfully, your obedient servant,

W. H. DEGGS, Captain.
HENRY S. ADDISON, 1st Lieut.
R. P. DOWDEN, 2d Lieut.

Major General WALTER JONES,
Commanding the Militia of the D. C.

No. 11.

JUNE 7*th*, 1847.

To Major General WALTER JONES:

SIR: We have the honor to inform you that it is the unanimous wish of our company that they should be commanded by Lt. Col. Charles Lee Jones, as it has been by his energy, influence, and means that the company has been raised.

I have the honor to be, your obedient servant,

E. BARRY, Captain.
JOSIAH CLEMENTS, 1st Lt.

No. 12.

[The third company, not having been yet organized, in consequence of their number falling short of the required complement, though they were all mustered into service like the others, had not yet given a formal expression to their wishes on the choice of a Lieutenant Colonel; but soon as the news reached them, on the 8th June, of the very unexpected change that had occurred in that matter, they all assembled, (with the exception of a few who were out of the way,) and signed the following memorial; which was presented to the President by a committee of their body:]

TUESDAY, *June 8th*, 1847.

To the President of the United States:

We, the subscribers, members of one of the three companies of volunteer infantry, constituting the quota from this District to the battalion to be composed of those three companies and two others from Maryland, very respectfully represent, that the enrolment of that company commenced early last month, and is not yet full; that our company was set on foot as to be commanded by Captain Dan Drake Henrie, but neither he, nor any officer of the company, has yet been commissioned.

We further represent, that the battalion in which we enrolled ourselves was officially designated, from the commencement, as one commanded by Lieutenant Colonel Charles Lee Jones; that it is now so borne, both upon our own muster-roll and upon the muster-rolls of the two companies already commissioned, under the command of Captains Degges and Barry; that such form of official enrolment concurred with the original and predetermined preferences of ourselves, and, as we verily believe, of every officer and man in the other two companies. Nor did we ever, by any manner or form of contract whatever, agree to be enrolled in any corps whatsoever, but the particular battalion so designated as one commanded as aforesaid; it is, therefore, with utter astonishment that we learn this day, for the first time, that another officer is really and in fact designated to command the battalion; a gentleman whose name we never before heard of in connexion with the battalion; so far the true designation of the corps in which we intended to enrol ourselves, and did in fact enrol ourselves, has been essentially varied and departed from. Without intending any objection, personal or particular, to the officer now understood to be the designated Lieutenant Colonel of our battalion, we say, and we doubt not every officer and man in the other companies are ready to declare the same, that, from the beginning of our enrolment to the present time, we looked to having united ourselves to a battalion commanded by a designated Lieutenant Colonel, whose special designation to that command was matter of public notoriety, and recognised on the face of our own muster-roll, and who was originally, and yet is, preferred by us to every other.

We therefore solemnly protest against being held, either legally or morally, bound by our en-

rolment, if its terms be so materially varied and departed from as to set aside a commandant who is peculiarly our choice; a choice officially sanctioned heretofore, and notoriously justified by his merits and his services to us, and to all our comrades of the battalion. We humbly submit, that any attempt to force us, under any pretence of our present enrolment into a different designation of corps from that contemplated in our enrolment, would be manifest oppression and breach of faith. We trust and believe that no such design is entertained, and that a free option is to be reserved to us to leave or to adhere to the company, if the supposed plan of changing the commandant of the battalion be persisted in.

In conclusion, we beg leave to represent the hardship already imposed on us in this respect; that we have been kept now more than a month since our enrolment commenced without pay or subsistence from Government, and during all that time we have been dependent on our supposed commander, Lieutenant Colonel Jones, for our comforts and subsistence. We further declare, that it is by his influence, means, and exertions, that our company has been brought to its present stage towards organization.

The presentation of this memorial produced a scene at the presidential mansion that may suggest some curious reflections to those who have trusted more to the names than to the substance of things, and little imagine how soon the discretionary exercise of vast power and patronage may generate in the professing Democrat the same necessity for the soothings of obsequiousness and flattery, and the same abhorrence of honest plain-speaking, as are supposed to inhere by right divine in princes born. The committee, who presented the memorial, was composed of very respectable and intelligent young men; and at the head of them was Mr. Mason Cooke, a young Virginian, extensively connected, both on his father's and his mother's side, with well known and most respectable families in Virginia. The errand of these young men was at first quite mistaken; it was, doubtless, taken at first as purely complimentary, and to pay the homage of soldiers to the commander-in-chief of the army and navy of the United States; a branch of the Presidential Office now growing to a rankness that may, in no long time, overshadow and dwindle all the primary offspring of the Constitution; and stand, nevertheless, as the emblem of the most purely democratic of all the attributes of the Presidential Office. They were accordingly received at first with all the bland affability and condescension so becoming and graceful in the reception of lieges by their liege lords. But when the memorial came to be read, then high-stomached indignation flashed out, and the young men were rated and insulted with a *dignity* quite as princely, and quite as far removed from the vulgarity usually found in upstarts, as were the *grace* and *graciousness* of their first reception. Among other rebukes dealt out to them—the memorial was said to be dictatorial; and the signers to it were reproached with having put their names to what they had not read, and could not understand. Nor was this a momentary outbreak of indignation, but the source of abiding displeasure and bitterness in the Presidential breast; and the memorial was made the text from which unreasoning, uncomplaining, and abject submission to the Presidential will was to be preached to young volunteers. For in a few days afterwards, when one of the officers of another of these volunteer companies made his call at the Presidential mansion, Mr. President Polk took occasion to refer to the memorial with marked disapprobation, and to declare that no officer signing such a paper should ever have a commission.

Now, I desire to be corrected, if wrong, in some old fashioned notions of common right under constitutional sanctions; and, above all, of democratic

or republican freedom of speech. Is not petition and remonstrance to the *President* for redress of such grievances as flow from executive measures, and as it is competent for the Executive to redress, just as clear and indefeasible a right of the citizen, as petition and remonstrance to *Congress*? What is the degree in which a petition and remonstrance to the *President* must *fall below* a petition and remonstrance to *Congress* in freedom and plainness of speech, according to any established rule, either of conventional *etiquette* or of common right?

After critical examination and re-examination of this memorial, I can detect no word—no turn or shade of expression, that transgresses the strictest bounds of decorum and respect required in petitions to Congress; and as little can I comprehend what there is in it to offend the majesty either of a President or even of a *commander-in-chief*. I suspect the Emperor Napoleon himself would not have treated such a remonstrance from his old guard more harshly than with a sportive pinch of the ear, or the jocular and good-humored epithet of old grumblers.

Now if this memorial be held offensive and disrespectful, Mr. President Polk should, in mercy, give us to understand how humble is the guise in which his august person may be approached; and with what unctions of obsequious flattery, the irritable pride and self love of the sovereign ruler and the sovereign commander-in-chief should be mollified and soothed.

If this memorial be found, either in matter or manner, deficient of the respect required by decorum, or even by etiquette, I should the more regret it, because, in truth, the language in which it is couched is, for the most part, my own, and it was presented with my concurrence and advice.

I found the company collected in groups about their rendezvous, in a state of great excitement. They made strong appeals to me for my active interference in the matter, as I had been accessory to their enrolment as volunteers; and especially demanded my opinion, whether their enrolment under Lieut. Col. Jones bound them to serve in a battalion to which, not he, but another, had been assigned to take the command. I said and did every thing to mollify their excitement and persuade them to take time for cooler reflection. I promised to consider the rightfulness of their claim to a discharge, and if found maintainable, to assert it for them in case they still desired their discharge. But I advised them to wait a few days for the result of some representations which I intended to send in; and in the mean time try the effect of a remonstrance from themselves. In this way they were pacified from day to day, till at last they seemed to relinquish any plan of active opposition, though still highly discontented.

At that time it wanted but a word from me to have disbanded them, and I entertain the strongest doubts of their liability, in the then state of things, to military coercion. If my son had then shut up his house in which he had opened for them a place of rendezvous by day, and of lodging by night, very few indeed of them would ever afterwards have been rallied under the captain who afterwards obtained a commission to command them. They were left, however, in undisturbed possession of their accustomed rendezvous and lodgings, till their captain was enabled, in the course of a fortnight, to raise the small additional number of volunteers necessary for the first organization of the company.

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